

**IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GUZMAN CONSTRUCTION SOLUTIONS, LLC

Plaintiff,

v.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Defendant.

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

COMES NOW Guzman Construction Solutions, LLC, by and through undersigned counsel of record, and for its Complaint for Declaratory Judgment, states as follows.

JURISDICTION

1. Plaintiff Guzman Construction Solutions, LLC is a New Mexico Corporation doing business in the State of New Mexico whose primary address is 6020 Industry Way SE, Albuquerque, New Mexico.
2. Defendant Federal Motor Carrier Safety Administration (FMCSA) is an agency of the United States Department of Transportation.
3. This matter is brought pursuant to 28 U.S.C. §2201, Declaratory Judgments.
4. This Court has jurisdiction pursuant to 28 U.S.C. §1331, Federal question and 28 U.S.C. §1346, United States as defendant.

FACTUAL ALLEGATIONS

5. The Plaintiff operates commercial motor vehicles under DOT license number USDOT #1292822.

6. The Defendant FMCSA conducted a compliance review of the Plaintiff's operations that was completed on July 17, 2011.

7. On July 26, 2011, the Defendant FMCSA issued the Plaintiff a proposed "unsatisfactory" safety rating. The Plaintiff was notified to take certain action within 60 days from the date of the proposed rating to improve its safety rating to "conditional" or "satisfactory." The Plaintiff was also advised that it would be ordered to cease any and all operations of any commercial motor vehicles in interstate and intrastate commerce unless its safety rating was improved to "conditional" or "satisfactory."

8. On or about August 16, 2011, the Plaintiff requested an upgrade in its safety rating from the Defendants FMCSA pursuant to 49 C.F.R. §385.17 and provided a letter dated August 12, 2011 that contained information regarding the actions that had been taken by the Plaintiff to correct the identified deficiencies. (Exhibit 1).

9. 49 C.F.R. §385.17 establishes the procedures to be followed in order to obtain a change to a safety rating based on corrective action.

10. Pursuant to §385.17(e)(1), the Defendant FMCSA is required to complete a review of the request for a change in safety rating with 45 days of receipt of the request.

11. Defendant FMCSA is required to complete the review of the Plaintiff's request by October 1, 2011.

12. The FMCSA issued a letter dated September 20, 2011 directing the Plaintiffs to cease all transportation in interstate and intrastate commerce effective Sunday, September 25, 2011. (Exhibit 2). The order to cease was issued pursuant to 49 CFR §385.13.

13. 49 CFR §385.13(a)(2) states that operators who have received an “unsatisfactory” rating must cease operations on the 61st day after the Defendant FMCSA’s notice of proposed “unsatisfactory” rating.

14. §385.13(a)(2) provides that, if Defendant FMCSA determines that the motor carrier is making a good-faith effort to improve its safety fitness, the motor carrier may be allowed to operate for up to 60 additional days.

15. On September 22, 2011, Jerry Hayes on behalf of the Plaintiff requested clarification as to why the Plaintiff received an Order to Cease when the Plaintiff has already requested an upgrade but has not received a response from the Defendants FMCSA. (Exhibit 3).

16. David Geasland responded on behalf of Defendants FMCSA and stated that the process for the Order to Cease operations is separate from the upgrade process and the upgrade due date is separate from the date to cease operations. Mr. Geasland stated that he is out of the office until Monday, September 26, 2011, which is after the cease order goes into effect. Mr. Geasland also stated that “there are many carriers in the pile.” (Exhibit 3).

17. The Plaintiff has made a good-faith effort to improve its safety fitness, as evidenced by the August 12, 2011 letter to the Defendants FMCSA outlining the changes that have been implemented by the Plaintiff. (Exhibit 1).

18. Based on the information provided to the Defendants FMCSA on August 16, 2011, the Plaintiff should be given an additional 60 days to operate, which allow the Plaintiff to continue to operate while the Defendants FMCSA completes its review of the Plaintiff’s request to upgrade its safety rating.

COUNT I REQUEST FOR DECLARATORY JUDGMENT

19. The Plaintiff incorporates by reference all preceding paragraphs of the Complaint.

20. The regulations in 49 CFR §385.13 and §385.15 establish two regulatory paths that the Plaintiff must follow in order to address the deficiencies identified by the Defendants FMCSA and to obtain a change to a proposed safety rating issued as a result of a compliance order.

21. David Geasland, on behalf of the Defendants FMCSA admitted that there are two separate processes and stated that the Plaintiffs will have to cease commercial motor vehicle operations during the review process.

22. 49 CFR §385.13 allows for an additional 60 days of operation following an unsatisfactory rating if the motor carrier is making a good-faith effort to improve its safety fitness.

23. Even though the Plaintiff provided information to the Defendants FMCSA on August 12, 2011 demonstrating that it is making a good-faith effort to improve its safety fitness, the Defendants FMCSA has ordered the Plaintiff to cease motor vehicle operations on the 61st day.

24. Pursuant to 28 U.S.C. §2201, the Plaintiffs request that the Court grant a declaratory judgment that the Plaintiff, having made a good faith effort to improve its safety fitness, should be allowed to operate for an additional 60 after September 24, 2011.

25. The Plaintiffs further request that the Court declare the Plaintiffs are not required to comply with the September 20, 2011 Order to Cease all transportation in interstate and intrastate commerce.

COUNT II REQUEST FOR PRELIMINARY INJUNCTION

26. The Plaintiff incorporates by reference all preceding paragraphs of the Complaint.

27. The Plaintiffs request that the Court enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure prohibiting the Defendant FMCSA for enforcing the September 20, 2011 Order to Cease transportation until such time as the Defendant FMCSA completes its review of the Plaintiff's request for a change to safety rating pursuant to 49 CFR §385.15

28. Without the issuance of a preliminary injunction the Plaintiff will suffer irreparable injury because it will be forced to stop using its commercial vehicles to the detriment of its business, despite the fact that it has taken significant steps to address the deficiencies identified by the Defendant FMCSA, as evidenced by the August 12, 2011 letter attached as Exhibit 1. (Exhibit 4, Affidavit of Patsy Guzman).

29. The Plaintiff will suffer irreparable injury because it has substantial on-going contracts with major clients that they would not be able to continue working on if they have to cease operations as directed by the Defendant FMCSA. The contacts include substantial penalties and damages. The Plaintiffs also have substantial overhead associated with the contracts. (Exhibit 4, Affidavit of Patsy Guzman).

30. There is a substantial likelihood that the Plaintiff will prevail on its request for declaratory judgment based on the specific language of 40 CFR §385.13 allowing for an additional 60 days for good-faith efforts to improve its safety fitness. In addition, the Plaintiff will likely prevail on its request to receive an upgrade to its safety rating because of the changes that have been implemented since the July, 2011 compliance review.

31. The threatened injury to the Plaintiff outweighs any harm or injury to the Defendant FMCSA, particularly given the fact that the applicable regulations allow for an additional 60 days when the carrier has made a good-faith effort to improve its safety fitness, as the Plaintiff has done.

32. Based on the changes that the Plaintiff has already made to its commercial vehicle operation, the preliminary injunction, which maintains the status quo until the Defendant FMCSA completes its review of the Plaintiff's request for a safety upgrade, is not adverse to the public interest.

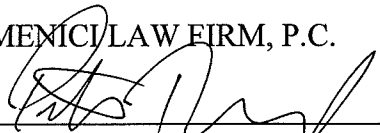
PRAYER FOR RELIEF

33. WHEREFORE, based on the foregoing, Guzman Construction Solutions, LLC, requests the following:

- a. A declaratory judgment that Guzman Construction Solutions, LLC is not required to cease operations until such time that Defendant FMCSA completes its review of Guzman Construction Solutions, LLC's request for a change to safety rating pursuant to 49 CFR §385.15;
- b. a preliminary injunction prohibiting the Defendant FMCSA for enforcing the September 20, 2011 Order to Cease transportation until such time as the Defendant FMCSA completes its review of the Plaintiff's request for a change to safety rating pursuant to 49 CFR §385.15;
- c. such other relief as the Court deems appropriate.

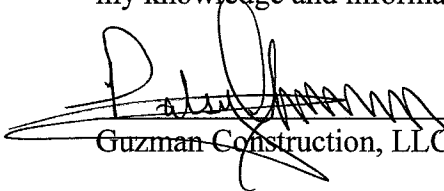
Respectfully submitted,

DOMENICI LAW FIRM, P.C.


Pete V. Domenici, Jr., Esq.

Lorraine Hollingsworth, Esq.
320 Gold Ave. SW, Suite 1000
Albuquerque, New Mexico, 87102
505-883-6250

I hereby certify that the information contained in the foregoing Complaint is true to the best of my knowledge and information.


Guzman Construction, LLC by

Jerry Hayes

From: Jerry Hayes <hayesj@ccs-southwest.com>
Sent: Tuesday, August 16, 2011 12:36 PM
To: 'david.geasland@dot.gov'
Subject: RE: Guzman Construction Solutions
Attachments: image001.png

I am sorry for the confusion. I was meaning to ask for an Upgrade in Safety Rating, not another CR.

From: david.geasland@dot.gov [mailto:david.geasland@dot.gov]
Sent: Monday, August 15, 2011 8:27 AM
To: hayesj@ccs-southwest.com
Cc: hector.zendejas@dot.gov; cynde.teetzen@dot.gov; nmta@truckline.com
Subject: RE: Guzman Construction Solutions

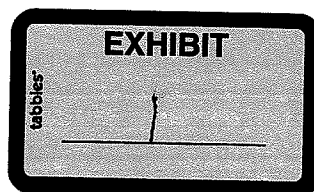
FMCSA as a matter of policy does not conduct compliance reviews for unsatisfactory upgrades. You will have to follow Section 385.17 to request an upgrade.
I have attached a copy of the section.

From: Jerry Hayes [mailto:hayesj@ccs-southwest.com]
Sent: Friday, August 12, 2011 4:15 PM
To: Geasland, David (FMCSA)
Cc: Zendejas, Hector (FMCSA)
Subject: Guzman Construction Solutions

Jerry A. Hayes
Compliance Supervisor



4809 Jefferson Ne
Albuquerque, NM 87109
Tel: (505) 830-3776
Fax: (505) 884-3661





C. C. S. Consulting LLC.

4809 Jefferson NE – Albuquerque, NM 87109 – Tel: (505) 830-3776 – Fax: (505) 884-3661

August 12, 2011

NM Division Administrator: Cynde Teetzen
Federal Motor Carrier Safety Administration
2440 Louisiana Blvd. NE Ste 520
Albuquerque, NM 87110

RE: Guzman Construction Solutions, LLC US DOT #: 1292822

Dear Ms. Teetzen;

This letter is in response to the Compliance Review of the above named company on 07/14/11.

CCS is working in conjunction with the above named company to correct deficiencies found under parts 40.47(a), 40.311(b), 177.817(a), 382.301(a), 382.305(i)(2), 382.603, 383.23(a), 383.37(a), 390.19(a)(2), 390.21(a), 391.21(a), 391.51(a), 391.51(b), 396.11(a), 396.17(a) and 396.19(b).

- 40.47(a) - New policies have been implemented to ensure compliance with the regulations. There have also been regulations concerning a DOT Reportable test passed out of personnel.
- 40.311(b) – The MRO that was used is no longer practicing and close inspection of reporting will be taken.
- 177.817(a) – New Shipping papers and BOL are being used on all HM movements. The company is using the old for office purposes and the new one per regulation. (see attached)
- 382.301(a) - New policies have been implemented to ensure compliance with the regulations.
- 382.305(i)(2) - New policies have been implemented to ensure compliance with the regulations. Alejandro Cota-Atillion is actually a truck washer and was pulling the vehicle from the company lot next door. It is understood what the regulations are and that has been addressed.



C. C. S. Consulting LLC.

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- 382.603 – Supervisory Training class is scheduled in the beginning of September and will be attended by required office personnel.
- 383.23(a) - New policies have been implemented to ensure compliance with the regulations. Alejandro Cota-Atillion is actually a truck washer and was pulling the vehicle from the company lot next door. It is understood what the regulations are and that has been addressed.
- 383.37(a) – Driver was confused regarding the reinstatement of his license. He had went to court on the issue, just had not paid the reinstatement fee. Driver is current and all reinstatements have been completed. (see attached)
- 390.19(a)(2) – A DOT Pin number has been requested in July, and once received, updates will be done as required.
- 390.21(a) – The DOT Number displayed on all CMV's have been changed to read US DOT# 1292822 NM.
- 391.21(a) - New policies have been implemented to ensure compliance with the regulations.
- 391.51(a) - New policies have been implemented to ensure compliance with the regulations, and all files will be completed and maintained per regulations.
- 391.51(b) - New policies have been implemented to ensure compliance with the regulations, and all files will be completed and maintained per regulations.
- 396.11(a) - New policies have been implemented to ensure compliance with the regulations, and all drivers are required to turn in DVIR's daily and they will be checked prior to movement of the vehicle.
- 396.17(a) – All CMV's have current Annual Inspections. (see attached)
- 396.19(b) – By end of audit all Inspector Qualifications had been received except for one. The one that was missing the individual will not return calls so therefore will not be used again.



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Changes have already been made and new policies implemented to fix the problems that were found in the audit.

With these changes to procedures and policies the company is requesting a Follow up Compliance Review for a Safety Rating upgrade.

If there are any questions, please feel free to call me at the number below.

Sincerely,

Jerry Hayes
Compliance Supervisor
Complete Compliance Services
505-830-3776

GUZMAN CONSTRUCTION SOLUTIONS INC - SHIPPING SHEET

| | | | |
|---------------------------|--------------------------------|---------|-------------|
| SERVICE TRUCK # 01 | HAZMAT DRIVER Abundio Martinez | | |
| DIESEL # 2 - NA 1993, III | | | |
| DATE: | GALLONS | JOBSITE | NOTES/OTHER |
| 1102D CASE ROLLER | | | |
| 140 H BLADE | | | |
| 140G CAT BLADE | | | |
| 160 JD EXCAVATOR | | | |
| 163H CHAVA BLADE | | | |
| 210 JD GRADING TRACTOR | | | |
| 267 SKID STEER BOBCAT | | | |
| 320 CAT EXCAVATOR | | | |
| 330 B CHAVA EX BL | | | |
| 420 D BACKHOE | | | |
| 450 JD EXCAVATOR (1) | | | |
| 450 JD EXCAVATOR (2) | | | |
| 5D DOZER | | | |
| 563 CAT ROLLER | | | |
| 563 CP CAT - CHAVA | | | |
| 613 B 5,000 WATER WAGON | | | |
| 623B CAT SCRAPER # 2 | | | |
| 623F CAT SCRAPER # 3 | | | |
| 623F CAT SCRAPER # 4 | | | |
| 623F CAT SCRAPER # 5 | | | |
| 623F CAT SCRAPER # 6 | | | |
| 623F CAT SCRAPER # 7 | | | |
| 631 WATER WAGON | | | |
| 644 JD H (3) | | | |
| 644 JOHN DEER LOADER (2) | | | |
| 644J JOHN DEER LOADER (1) | | | |
| 672 JD BLADE | | | |
| 710 JD BACKHOE | | | |
| 770D JOHN DEER BLADE | | | |
| 850 GALLON BLADE | | | |
| 928G CAT LOADER | | | |
| 980F CHAVA LOADER | | | |
| 980G CAT LOADER (1) | | | |
| 980G LOADER - NEWEST (2) | | | |
| 980 G CAT LOADER (3) | | | |
| 980G CHAVA LOADER | | | |
| 744 H LOADER | | | |
| 988 LOADER CHAVA | | | |
| DOZER KOMATSU | | | |
| DYNAPAC ROLLER SHEEP | | | |
| INGERSOL RAND ROLLER | | | |
| VOLVO ROLLER # 1 | | | |
| VOLVO ROLLER # 2 | | | |
| BW 142 D ROLLER | | | |
| BROCE BROOM | | | |

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CONTAINS HAZARDOUS MATERIALS**STRAIGHT BILL OF LADING – SHORT FORM – Original – Not Negotiable**

Shipper's No. _____

(Carrier) _____ SCAC _____ Carrier's No. _____
 RECEIVED, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, if applicable, otherwise to the rates, classifications and rules that have been established by the carrier and are available to the shipper, on request; and all applicable state and federal regulations;

at _____ date _____ from _____

the Property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to delivery at said destination, if on its route, or otherwise to deliver to another carrier on the route to said destination. It is mutually agreed as to each carrier of all or any of said Property over all or any portion of said route to destination and as to each party at any time interested in all or any of said Property that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, including the conditions on the back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.

(Mail or street address of consignee for purposes of notification only.)

TO:

Consignee

Street

Destination

Zip

FROM:

Shipper

Street

Origin

Zip

Route: _____

Delivering CarrierTrailer Initial/
NumberU.S. DOT Hazmat
Reg. Number

| No. of packages | HM | Description of articles, special marks, and exceptions | Hazard Class | I.D. Number | Packing Group | *Weight (subject to correction) | Class or rate | Labels required (or exemption) | Check column |
|--------------------|----|--|-----------------|----------------|------------------|---------------------------------------|------------------|-----------------------------------|-----------------|
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |

Remit C.O.D. to:

Address:

City:

State:

Zip:

COD

AMT:

\$

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:
The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

C. O. D. FEE:Prepaid ☐Collect ☐ \$

ies. — where the rate is dependant on value, shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding _____ per _____

NOTE: Liability Limitation for loss or damage in this shipment may be applicable. See 49 U.S.C. 14706(c)(1)(A) and (B). This is to certify that the above-named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

Per _____

Charges Advanced

\$

(Signature of consignor)

FREIGHT CHARGES☐ Prepaid ☐ Collect**PLACARDS
REQUIRED****PLACARDS
SUPPLIED**

☐ YES ☐ NO - FURNISHED BY CARRIER
 DRIVER'S SIGNATURE: _____

SHIPPER: _____ CARRIER: _____

PER: _____ DATE: _____ PER: _____ DATE: _____

EMERGENCY RESPONSE

TELEPHONE NUMBER: () _____

Permanent post office address of shipper _____

Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (§172.604).

CONTAINS HAZARDOUS MATERIALS**CONTAINS HAZARDOUS MATERIALS**

07/27/2011 13:46 7980947

HALL

Southwest M.R.O., LLC

Rene Gonzalez, M.D.
 Certified M.R.O. and Addictionist
 P.O. Box 95108
 Albuquerque, N.M. 87199-5108

Telephone (505) 291-5444
 Fax (505) 271-2485

CONFIDENTIAL REPORT

COMPANY NAME: **COMPLETE COMPLIANCE SERVICES**
GUZMAN CONSTRUCTION SOLUTIONS

CONTACT PERSON: Ms. Paula Hall

SS#/ID#: 640-36-7932 REQ#. F6889275

NAME: Domitilo Aguilar

COLLECTION SITE: S.E.D. MIDTOWN COLLECTIONS-Albuquerque, NM

COLLECTION DATE: 07/15/11 DATE COPY TWO RECEIVED: 07/15/11

LABORATORY: S.E.D. MEDICAL LABORATORIES- Albuquerque, NM

REASON FOR TEST: (X) PRE EMPLOYMENT () RANDOM
 () POST ACCIDENT () FOLLOW-UP

The original laboratory results have been reviewed by a trained Medical Review Officer (MRO). Federal regulations require that all information be kept confidential and may only be released to designated officials.

| | YES | NO |
|--------------------------|-----|-----|
| Accession Code Confirmed | (X) | () |
| Client I.D. Confirmed | (X) | () |
| DHHS Test | (X) | () |

Testing was done in accordance with 49 CFR Parts 382 and 40 and the results were determined as:

| | |
|--------------|------------------------|
| (X) Negative | () Test not performed |
| () Positive | () Test canceled |

Rene Gonzalez M.D.

Signature of Reviewer
 RG/mm

Title

July 18, 2011
 Verification Date

RE-TYPED July 20, 2011

07/27/2011 13:45 7988947
JUL 18 2011 11:03AM SED MID TOWN 121 6311

HALL

No. 6774 P. 1/1

SAFE



SED Medical Laboratories

MEMORANDUM FOR RECORD

(For recovery of information about specimen collection)

Date: 7/18/11From: VINCE TORRES

(Collector's Printed Name)

To: S.E.D. Medical Laboratories, 5601 Office Blvd NE, Albuquerque, NM 87109 (fax# 505-727-6327)

Specimen ID No.: F6889275

The following incident(s), omission(s), and/or error(s) occurred during the collection process for the above referenced specimen for all steps that are checked below.

- ☐ Step 1: Donor Name: _____
Explanation of discrepancy (i.e., donor used: maiden, middle name, double last name)
- ☐ Step 1: Donor SSN/ID No. (Enter OR write "Refused to Provide"): _____
- ☒ Step 1: Reason for test: PRE-EMPLOYMENT
- ☐ Step 1: Specimen is to be tested for: _____ or confirmed for: _____
- ☐ Step 2: Specimen temperature between 90° -100°F? ☐ Yes; ☐ No (enter Remark in "OTHER")
- ☐ Step 2: Remarks should read: _____
- ☐ Step 4: I received the specimen from the donor without signing (see signature below).
- ☐ Step 4: I performed the collection of the specimen on 7/18/11
- ☐ Step 4: Name of delivery service transferring specimen to lab: _____
- ☐ OTHER: _____

CERTIFICATION STATEMENT

I, the undersigned, certify that the specimen identified above is the specimen presented to me, the collector, by the donor, that it bears the same identification number as that set forth above, and that it has been collected, labeled, sealed, and shipped in accordance with the instruction on the back of the CCF and other applicable requirements.

(Collector Signature)

NOTE: Send to Laboratory, MRO (if applicable) and Employer. Retain one copy with the collector's CCF.

07/27/2011 13:46 7580547

HALL

PAGE 03



S.E.D. Medical Laboratories
5601 Office Blvd., NE
Albuquerque, NM 87109
505/727-6300 800/999-LABS

F6883275

SPECIMEN ID NO.

LAB ACCESSION NO.

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

| | | | |
|--|--|--|--|
| A. Employer Name, Address, I.D. No. Complete Company/Division, Construction 620 Broadway Way SE Albuquerque, NM 87102-1563 FAX: 505-452-6554 TBA FAX: 505-452-6554 | | B. MRO Name, Address, Phone and Fax No. DR. Maria Gonzalez P.O. Box 98106 Albuquerque, NM 87135 TEL: 505-727-6344 FAX: 505-727-6355 | |
| C. Donor SSN or Employee I.D. No. 6403, E 743, J | | 400GB | |
| D. Reason for Test: <input type="checkbox"/> Pre-employment <input checked="" type="checkbox"/> Random <input type="checkbox"/> Reasonable Suspicion/Cause <input type="checkbox"/> Post Accident <input type="checkbox"/> Return to duty <input type="checkbox"/> Follow-up <input type="checkbox"/> Other (specify) _____ | | | |
| E. Drug Tests to be Performed: <input checked="" type="checkbox"/> THC, COC, PCR, OPI, AMP <input type="checkbox"/> THC & COC Only <input type="checkbox"/> Other (specify) _____ | | | |
| F. Collection Site Address: S.E.D. Midtown 5601 Office Blvd NE Ste# 800 Albuquerque NM 87109 | | Collector Phone No. 505-727-6293 Collector Fax No. 505-727-6311 | |

STEP 2: COMPLETED BY COLLECTOR

| | |
|--|---|
| Read specimen temperature within 4 minutes. Is temperature between 90° and 100°F? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, Enter Remark _____ | Specimen Collection: <input checked="" type="checkbox"/> Split <input type="checkbox"/> Single <input type="checkbox"/> None provided (Enter Remark) _____ <input type="checkbox"/> Observed (Enter Remark) _____ |
| REMARKS | |

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

| | | |
|--|---|--|
| SIGNATURE OF COLLECTOR [Signature] (PRINT) Collector's Name (First, MI, Last) _____ | TIME OF COLLECTION 14:30 AM 7/13/11 Date (Mo./Day/Yr.) _____ | SPECIMEN BOTTLE(S) RELEASED TO: [Signature] Name of Delivery Service Transferring Specimen to Lab _____ |
| RECEIVED AT LAB: <input checked="" type="checkbox"/> [Signature] (PRINT) Accessioner's Name (First, MI, Last) _____ | Primary Specimen Bottle Seal Intact <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, Enter Remark Below _____ | SPECIMEN BOTTLE(S) RELEASED TO: |

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

[Signature]
Signature of Donor
(PRINT) Donor's Name (First, MI, Last) _____
Date (Mo./Day/Yr.) 7/15/11

Daytime Phone No. 505-341-223 Evening Phone No. 883-912 Date of Birth 5/20/65

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). - DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THIS FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELLED ☐ REFUSAL TO TEST BECAUSE
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS

X [Signature]
Signature of Medical Review Officer
(PRINT) Medical Review Officer's Name (First, MI, Last) _____
Date (Mo./Day/Yr.) _____

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen: (If tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X [Signature]
Signature of Medical Review Officer
(PRINT) Medical Review Officer's Name (First, MI, Last) _____
Date (Mo./Day/Yr.) _____

METRO
801 4TH ST STE W
ALBUQUERQUE NM 87102
5057646650

Sales Receipt

Sales: 00010166010004698
Date: 6/15/2011 Time: 12:21:12 PM
Cashier: daq02e Register #: 166

ACCOUNT: 1
BILL TO: ARTHUR ROHERO
225 52ND ST SW
ALBUQUERQUE NM 87105

Reference: 20110615-02E-DHQ-12201200
Current Batch Number: 36562

| Item | Description | Amount |
|---------------|-------------------------|---------|
| 0A0016 | Failure to Appear In Co | \$0.00 |
| 0A0010 | Reinstatement Fee | \$25.00 |
| Sub Total | | \$25.00 |
| Total | | \$25.00 |
| Cash Tendered | | \$30.00 |
| Change Cash | | \$5.00 |



* 0 0 0 1 0 1 6 6 0 1 0 0 0 4 6 9 8 *

NVD Transaction Number

20110615-02E-DHQ-12201200

Thank You for visiting your local NVD office
NVD Headquarters

MVD - 10536
REV 03/95State Of New Mexico
MOTOR VEHICLE DIVISION

ACTION TRANSACTIONS RECORD

Art ROMERO JR
COUNT ON
JULY 18th 8:45 AM

6/15/2011

Form Number : 45785

Name : ROMERO

ARTHUR

Field Office : 02E

Clerk : DMQ

Driver Lic Nbr:037948454

SSN: 525338737

Report Number : 11166

| Trans Type | Violation Code | Begin Date | End Date | Citation No | Amount Due(\$) |
|------------|----------------|------------|------------|-------------|----------------|
| SUS1 | XC4 | 05/18/2011 | 05/18/2111 | 004431361 | 0.00 |
| ADM1 | RF1 | 00/00/0000 | 00/00/0000 | 000000000 | 25.00 |

Cash Received :

Change Due :

Check Amount :

Check Number :

Total Due : 25.00

MVD-10079
REV. 04/08

STATE OF NEW MEXICO



NOTICE OF COMPLIANCE FOR FAILURE TO APPEAR IN COURT

New Mexico Licensee / Resident ONLY

TR 17475/11

REPORTING AGENCY INFORMATION

| | | | |
|------|---------------------------------------|------------|-----------|
| Name | BERNALILLO COUNTY METROPOLITAN | Court Code | 04 |
|------|---------------------------------------|------------|-----------|

| | |
|---------|--------------------------|
| Address | 401 LOMAS BLVD NW |
|---------|--------------------------|

| | | | | |
|------|--------------------|------|----------|--------------|
| City | ALBUQUERQUE | N.M. | Zip Code | 87102 |
|------|--------------------|------|----------|--------------|

CITATION INFORMATION

| | | | | | | | | | |
|-------------|-----------|-------------|------------|--------|-----------------|------------------|------------|----------------|----------------|
| County Code | 02 | Agency Code | 200 | Number | 44313617 | Original Offense | XE2 | Violation Date | 4/16/11 |
|-------------|-----------|-------------|------------|--------|-----------------|------------------|------------|----------------|----------------|

VIOLATOR'S INFORMATION

| | | | | | | | | | | | |
|----------------------------|----------|-----------|-------------|-----------------------|--------------|------------------|------------|--------------------------|----------|-----------|-----------|
| NAME: ROMERO ARTHUR | | | | NM Driver License No. | | 037948454 | | | | | |
| Last, First, MI | | | | | | | | | | | |
| Street Address | | | | 225 52ND ST SW | | | | | | | |
| City | | | | State | Zip Code | | | | | | |
| ALBUQUERQUE | | | | NM | 87105 | | | | | | |
| D. O. B. | Month | Day | Year | SSN # | Vio. Code | NM Stat. NO | Court Date | Report/Action Begin Date | Month | Day | Year |
| | 5 | 04 | 1967 | | XC4 | 66-5-30 | | | 5 | 18 | 11 |

**OFFICIAL
USE
ONLY**

LRIOS

B. G. Gilman
Signature of Authorized Court Representative

6/15/11

Compliance Date

VIOLATOR'S COPY

15. ROMERO, A. -- NEW MEXICO Motor Vehicle Record

LAST MODIFIED : Wed 2011.07.20
 PDF GENERATED : Wed 2011.07.20
 MVR REQUESTED : Wed 2011.07.20

DRIVER INFORMATION (BASIC DATA)

FIRST NAME : ARTHUR
 MIDDLE NAME : J
 LAST NAME : ROMERO
 ADDRESS : 225 52ND ST SW
 ALBUQUERQUE NM 87105
 BIRTH DATE : 05-04-1967

DRIVER'S LICENSE INFORMATION

License # : 37948454
 Status : VLD(Valid)
 Class : CDL(A: Class A Commercial Driver's License)
 Issued : 04-22-2008
 Restriction : None
 Endorsement : N (ANY VEHICLE INTENDED FOR HAULING LIQUIDS IN BULK)
 Endorsement : T (COMBINATION VEHICLE WITH DOUBLE TRAILER)
 Expires : 06-04-2012

License # : 37948454
 Status : EXP(Expired)
 Class : CDL(A: Class A Commercial Driver's License)
 Issued : 09-04-1998
 Restriction : W (INSTRUCTIONAL/LEARNER, OPERATION W/DRIVER OF EQUAL OR GREATER CLASS)
 Endorsement : None
 Expires : 03-04-1999

License # : 37948454
 Status : EXP(Expired)
 Class : OTH(ID: ID card)
 Issued : 01-23-1998
 Restriction : None
 Endorsement : None
 Expires : 05-31-2001

ACTIONS

NO ACTIONS

CITATIONS

Citation Id : 001677310
 Code : XN5
 Description : (Actual Speed: 65, Posted Speed: 55) SPEEDING IN A COMMERCIAL MOTOR VEHICLE 6 TO 14 MPH OVER THE POSTED SPEED LIMIT ON ANY TRAFFICWAY WHERE THE SPEED LIMIT IS OTHER THAN 15 OR 30 AND THE SPEED IS LESS THAN 76 MPH

Incident Date : 11-24-2009
 Conviction Date : 12-17-2009
 Jurisdiction : NM / BERNALILLO
 Accident Flag : Not Provided By State
 Suspension Flag : Not Provided By State
 At Fault Flag : Not Provided By State
 Points : 0

Citation Id : 001508398
 Code : XH8
 Description : (Actual Speed: 67, Posted Speed: 55) SPEEDING 1 OR MORE MPH OVER THE POSTED SPEED LIMIT IF THE LIMIT IS OTHER THAN 15 OR 30 MPH AND THE SPEED WAS LESS THAN 76 MPH
 Incident Date : 05-05-2009

15. ROMERO, A.

| | |
|-----------------|--|
| Conviction Date | : 06-24-2009 |
| Jurisdiction | : NM / McKinley |
| Accident Flag | : Not Provided By State |
| Suspension Flag | : Not Provided By State |
| At Fault Flag | : Not Provided By State |
| Points | : 0 |
| | |
| Citation Id | : 001495800 |
| Code | : OL6 |
| Description | : A. SHIPPER LOADING VIOLATION B. GROSS/COMB WEIGHT EXCEEDS THE MAX C. REFUSAL TO SUBMIT TO WEIGHING |
| Incident Date | : 07-30-2008 |
| Conviction Date | : 01-22-2009 |
| Jurisdiction | : NM / SANTA FE |
| Accident Flag | : Not Provided By State |
| Suspension Flag | : Not Provided By State |
| At Fault Flag | : Not Provided By State |
| Points | : 0 |
| | |
| Citation Id | : 001495778 |
| Code | : SA5 |
| Description | : PARTS AND ACCESSORIES - STATE |
| Incident Date | : 07-24-2008 |
| Conviction Date | : 09-23-2008 |
| Jurisdiction | : NM / SANTA FE |
| Accident Flag | : Not Provided By State |
| Suspension Flag | : Not Provided By State |
| At Fault Flag | : Not Provided By State |
| Points | : 0 |
| | |
| Citation Id | : 001495777 |
| Code | : SA6 |
| Description | : DRIVER HOURS OF SERVICE - STATE |
| Incident Date | : 07-24-2008 |
| Conviction Date | : 09-23-2008 |
| Jurisdiction | : NM / SANTA FE |
| Accident Flag | : Not Provided By State |
| Suspension Flag | : Not Provided By State |
| At Fault Flag | : Not Provided By State |
| Points | : 0 |
| | |
| Citation Id | : 001636058 |
| Code | : DE5 |
| Description | : OPERATING WITH ANY DEFECTIVE EQUIPMENT RESULTING IN INABILITY TO CONTROL VEHICLE MOVEMENT PROPERLY |
| Incident Date | : 07-23-2008 |
| Conviction Date | : 09-28-2008 |
| Jurisdiction | : NM / VALENCIA |
| Accident Flag | : Not Provided By State |
| Suspension Flag | : Not Provided By State |
| At Fault Flag | : Not Provided By State |
| Points | : 0 |
| | |
| Citation Id | : 000162659 |
| Code | : DI1 |
| Description | : DRIVING UNDER THE INTOXICATING INFLUENCE OF ALCOHOL, NARCOTICS, OR PATHOGENIC DRUGS |
| Incident Date | : 08-16-1990 |
| Conviction Date | : 04-15-1992 |
| Jurisdiction | : NM / |
| Accident Flag | : Not Provided By State |
| Suspension Flag | : Not Provided By State |
| At Fault Flag | : Not Provided By State |
| Points | : 0 |

RECORD OF ANNUAL INSPECTION

(49 CFR, 396.17-23)

Prepare Separate Report for Each Vehicle Inspected

DATE

1/28/11

D8250041

| | | | | | |
|--|--------------------|---------------------|---|---------------------|---|
| COMPANY NAME <i>Guzman Construction Solutions</i> | | | VEHICLE TYPE <input type="checkbox"/> TRUCK <input checked="" type="checkbox"/> TRACTOR <input type="checkbox"/> TRAILER | | CONVERTER <input type="checkbox"/> DOLLY |
| STREET ADDRESS <i>6020 Industry Way SE</i> | | | VEHICLE MAKE <i>Peterbilt</i> | MODEL <i>379</i> | YEAR <i>2001</i> |
| CITY <i>Albuquerque</i> | STATE <i>NM</i> | ZIP <i>87105</i> | VEHICLE IDENTIFICATION (Company No., State Tag No. or VIN) <i>1XP5D49X71D543713</i> | | |
| INSPECTOR'S NAME (Please Print) | | | EMPLOYEE NO. | | |

REPORT OF CONDITION (For Detailed Information on Inspection Procedures see FMCSR Section 396, Appendix G)

| | OK | REPAIR | | OK | REPAIR | | OK | REPAIR | | OK | REPAIR |
|---------------------|----|--------|-------------------|----|--------|--------------------|----|--------|---------------------|----|--------|
| BRAKES | | | EXHAUST | | | STEERING | | | FRAME | | |
| Adjustment | / | | Leaks | / | | Adjustment | / | | Members | / | |
| Mechan. Compon. | / | | Placement | / | | Column/Gear | / | | Clearance | / | |
| Drum/Rotor | / | | LIGHTING | | | Axle | / | | | | |
| Hose/Tubing | / | | Headlights | / | | Linkage | / | | TIRES | | |
| Lining | / | | Tail/Stop | / | | Power Steering | / | | Tread | / | |
| Low Air Warning | / | | Clearance/Marker | / | | Other | / | | Inflation | / | |
| Trailer Air Supply | / | | Identification | / | | FUEL SYSTEM | | | Damage | / | |
| Compressor | / | | Reflectors | / | | Tank(s) | / | | Other | / | |
| Parking Brakes | / | | Other | / | | Lines | / | | | | |
| Other | | | | | | | | | WHEELS/RIM | | |
| | | | CAB/BODY | | | SUSPENSION | | | Fasteners | / | |
| COUPLERS | | | Access | / | | Springs | / | | Disc/Spoke | / | |
| Fifth-Wheel & Mount | / | | Eqpt./Load Secure | / | | Attachments | / | | | | |
| Pin/Upper Plate | / | | Tie-Downs | / | | Sliders | / | | WINDSHIELD | | |
| Pintle-Hook/Eye | / | | Headerboard | / | | | | | | | |
| Safety Chain(s) | / | | Other | / | | MIRRORS | | | WINDSHLD WIP | | |
| | | | | | | | | | | | |

REMARKS

Certification: This vehicle has passed all the inspection items for the annual vehicle inspection in accordance with 49 CFR Part 396.

QUALIFIED INSPECTOR'S SIGNATURE

DATE

APPLY LABEL TO A CLEAN, DRY SURFACE.
USE WITH AN OVERLAMINATE (221-SN) TO
IMPROVE DURABILITY UNDER NORMAL
WEATHER CONDITIONS.

AN INDELIBLE INK MARKER IS RECOMMENDED
FOR USE WHEN FILLING OUT THE LABEL.
INDELIBLE INK IS PERMANENT AND WILL NOT
WASH OFF, BUT MAY FADE DUE TO EXPOSURE
TO ULTRAVIOLET LIGHT OVER TIME. CAREFUL
DISCRETION IS ADVISED REGARDING
APPLICATION OF LABEL TO AN AREA NOT
EXPOSED TO EXCESSIVE ULTRAVIOLET LIGHT
AND/OR ELEMENTS AND IT IS RECOMMENDED
THAT THE READABILITY OF THE LABEL BE
CHECKED PERIODICALLY.

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401-FC-O2 3136
(Rev. 6/10)

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793

1XP5D49X71D543713

Guzman Construction Solutions

6020 Industry Way SE

Albuquerque NM 87105



U.S. Department of
Transportation

Federal Motor Carrier
Safety Administration

Western Service Center

Golden Hill Office Centre
12600 W. Colfax Ave. Suite B-300
Lakewood, CO 80215

Phone: (303) 407-2350
Fax: (303) 407-2339

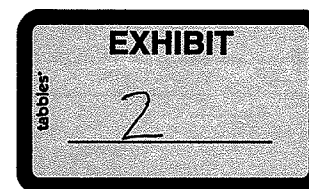
UPS
1ZA4762T0192434017

September 20, 2011

PATSY GUZMAN, OWNER
GUZMAN CONSTRUCTION SOLUTIONS LLC
6020 INDUSTRY WAY SE
ALBUQUERQUE, NM, 87105

Attn:
Rete D

**ORDER TO CEASE ALL TRANSPORTATION IN
INTERSTATE AND INTRASTATE COMMERCE**
EFFECTIVE Sunday, September 25, 2011 at 12:01 am
USDOT# 1292822



This Order to Cease All Transportation in Interstate and Intrastate Commerce (Order) is issued pursuant to 49 USC § 31144, and 49 CFR § 385.13.

This Order is the result of a compliance review of GUZMAN CONSTRUCTION SOLUTIONS LLC's operations completed on July 17, 2011. The review disclosed serious violations of the Federal Motor Carrier Safety Regulations and/or the Hazardous Materials Regulations.

GUZMAN CONSTRUCTION SOLUTIONS LLC, USDOT# 1292822, was issued a proposed "unsatisfactory" safety rating on July 26, 2011. GUZMAN CONSTRUCTION SOLUTIONS LLC was notified to take certain actions within 60 days from the date of that proposed rating to improve its safety rating to "conditional" or "satisfactory". GUZMAN CONSTRUCTION SOLUTIONS LLC was further advised that it would be ordered to cease any and all operation of any commercial motor vehicle(s) in interstate and intrastate commerce unless its safety rating was improved to "conditional" or "satisfactory".

GUZMAN CONSTRUCTION SOLUTIONS LLC has failed to take the necessary steps required to improve its safety rating to "conditional" or "satisfactory" within the required timeframe.

THEREFORE, IT IS ORDERED THAT GUZMAN CONSTRUCTION SOLUTIONS LLC SHALL CEASE ALL OPERATION OF ANY COMMERCIAL MOTOR VEHICLE(S) IN INTERSTATE AND INTRASTATE COMMERCE ON THE EFFECTIVE DATE AND TIME OF THIS ORDER UNLESS

AND UNTIL SUCH TIME AS THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION DETERMINES GUZMAN CONSTRUCTION SOLUTIONS LLC IS FIT.

IN ADDITION, EACH AND EVERY DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES GOVERNMENT IS PROHIBITED FROM USING GUZMAN CONSTRUCTION SOLUTIONS LLC FOR ANY TRANSPORTATION IN INTERSTATE AND INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT. (49 USC § 31144).

GUZMAN CONSTRUCTION SOLUTIONS LLC's continued operation of commercial motor vehicles in interstate and/or intrastate commerce after the effective date and time of this Order will be considered a serious safety violation. Each day the transportation continues constitutes a separate offense.

Violation(s) of this Order may result in penalties of not more than \$11,000 for each separate violation and may result in criminal prosecution leading to imprisonment for up to one (1) year or a fine of up to \$25,000, or both, and other actions as deemed necessary by the United States Department of Justice. (49 USC § 521(b)). Violation(s) of registration requirements, including providing transportation requiring registration during any period of revocation, may result in penalties of not less than \$650 for each separate violation. If the registration violation involves providing transportation of passengers, the penalty shall be not less than \$2,200 for each separate violation; if the registration violation involves the transportation of household goods, the penalty shall not be less than \$25,000 for each separate violation. (49 USC § 14901).

Operation, after the effective date and time of this Order, of a commercial motor vehicle designed or used to transport hazardous materials for which placarding of the vehicle is required is subject to a civil penalty of not less than \$275 and not more than \$50,000 for each offense. If the violation results in death, serious illness, or severe injury to any person, or in substantial destruction of property, the civil penalty may be increased to not more than \$105,000 for each offense. Operating a commercial motor vehicle designed or used to transport placardable amounts of hazardous materials after the effective date of this Order may also result in criminal prosecution leading to fines and imprisonment up to five (5) years, or fines and imprisonment up to ten (10) years if the violation involves a release of hazardous material that results in death or bodily injury to any person. (49 USC §§ 31144, 5123, 5124).

Please be aware, this Order may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of a final "unsatisfactory" safety rating.

Sincerely,



William R. Paden, Field Administrator
Federal Motor Carrier Safety Administration
Western Service Center

Jerry Hayes

From: david.geasland@dot.gov
Sent: Thursday, September 22, 2011 4:30 PM
To: hayesj@ccs-southwest.com; nmta@truckline.com; cynde.teetzen@dot.gov; Tom.Wilcoxen@dot.gov
Subject: Re: Guzman Construction
Attachments: image001.wmz; oledata.mso; image002.png

I am out til Mon. Guzman response is not due til Oct. They will have to cease operations til the file is reviewed. The OOSO is seperate from the upgrade process. The upgrade due date is also seperate from the OOSO. There are many carriers in the pile.

From: Jerry Hayes [mailto:hayesj@ccs-southwest.com]
Sent: Thursday, September 22, 2011 04:55 PM
To: Geasland, David (FMCSA)
Subject: RE: Guzman Construction

David,

Can I please get some help from you? I tried to call the office, left messages and even went by and it said it was closed. Guzman received an "Order to Cease" effective September 25, 2011. I am confused as to why this happened, and not quite sure what other information is needed to provide to you. Can you please help me out as to what else is needed?

Jerry A. Hayes

Compliance Supervisor



4809 Jefferson Ne

Albuquerque, NM 87109

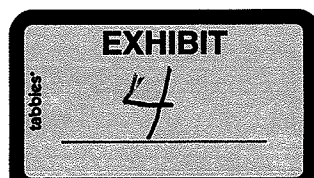
Tel: (505) 830-3776

Fax : (505) 884-3661



AFFIDAVIT OF PATSY GUZMAN

1. My name is Patsy Guzman and I am over the age of eighteen.
2. I am the manager of Guzman Construction Solutions, LLC.
3. I am familiar with the operations of Guzman Construction Solutions and with the terms and requirements of the company's current contracts.
4. I am familiar with the results of the Federal Motor Carrier Safety Administration's Compliance Review and the actions that Guzman Construction has taken to correct the deficiencies identified in that review.
5. I am familiar with the Order to Cease All Transportation in Interstate and Intrastate Commerce Effective Sunday September 25, 2011 at 12:01 a.m. issued by the Defendant Federal Motor Carrier Safety Administration on September 20, 2011.
6. In response to the Compliance Review, Guzman Construction has made a good-faith effort to improve its safety fitness. The specific changes made are outlined in the August 12, 2011 letter from C.C.S. Consulting, LLC to the Federal Motor Carrier Safety Administration.
7. If Guzman Construction is required to cease operations as set forth in the September 20, 2011 Order to Cease, the company will be faced with immediate fines and penalties associated with current, on-going contracts.
8. Guzman Construction is currently doing work in the Mesilla Levee Phase II project, in Mesilla, New Mexico under contract with the International Boundaries and Waters Commission. The contract is for earthwork and requires the use of vehicles and equipment subject to the Order to Cease. The project began in April, 2010 and is expected to be completed in November, 2011. If the company is required to cease the use of its commercial vehicles, the

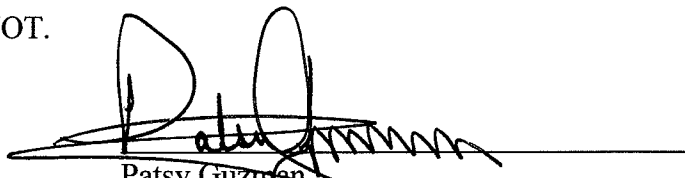


company will not be able to perform on the contract and will be immediately assessed liquidated damages in the amount of \$5,000 per day.

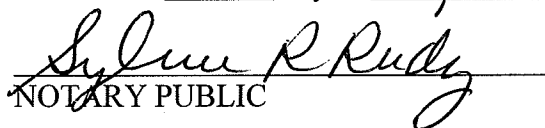
9. Guzman Construction is currently doing work on the Lead and Coal Avenue Restoration Project, located in Albuquerque, New Mexico, which is a major road and street upgrade and restoration project. The contract is with the City of Albuquerque and is for earthwork that requires the use of vehicles and equipment subject to the Order to Cease. The project is on-going. If the company is required to cease the use of its commercial vehicles, the company will not be able to perform on the contract and will be immediately assessed liquidated damages in the amount of \$4,000 per day.

10. Guzman Construction is currently doing work on the Cerrillos Road restoration project, located in Santa Fe, New Mexico, which is a major road and street upgrade and restoration project. The contract is with the New Mexico Department of Transportation and is for earthwork that requires the use of vehicles and equipment subject to the Order to Cease. The project is on-going. If the company is required to cease the use of its commercial vehicles, the company will not be able to perform on the contract and will be immediately assessed liquidated damages in the amount of \$5,000 per day.

FURTHER AFFIANT SAYETH NOT.


Patsy Guzman
Guzman Construction Solutions, LLC

SUBSCRIBED AND SWORN to before me this 23rd day of September, 2011.


NOTARY PUBLIC

My Commission Expires:

